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CONCORD, N.H.

November 13, 1958

Russell W. Hilliard, Director  
Aeronautics Commission  
Concord Airport  
Concord, New Hampshire

Dear Mr. Hilliard:

This is in reply to your letter of October 23, 1958 in which you advise that your office has received a request for an allocation of State funds for the construction of an airport in the town of Hinsdale to serve the Hinsdale and Brattleboro, Vermont area. You state that the Federal Government through the Civil Aeronautics Administration will contribute 50% of the total cost of the project, that the State of Vermont and the town of Brattleboro will contribute equally in an amount which will constitute 25% of the cost, and the application which has been filed with the New Hampshire Aeronautics Commission is for the remaining 25% in the amount of \$31,250.

You advise that this project is to be constructed under the Federal Aid Airport Program and that if authorized the contribution of the State of New Hampshire to the project will be from the funds appropriated by Chapter 319 of the Laws of 1957, Section 1 of which provides as follows:

"319:1 Airport Aid and Development Program. The sum of three hundred thousand dollars is hereby appropriated to be expended as needed by the aeronautics commission (1) for the purpose of equal matching of town funds for the development of airports with federal aid under the federal aid airport program or (2) for equal matching of town funds for the development of airports, as defined under the Federal Aid Airport Program by state contributions not in excess of five thousand dollars. In case of a grant under the provisions of (1) hereof, except in the case of a grant in an amount of five thousand dollars or less, the commission shall expend funds hereunder only under an agreement with the sponsoring town that said sponsor shall make annual payments not later than June first of each year, beginning on June first of the year following that in which the grant is made, to the aeronautical fund established under RSA 422:42 in any amount of not less than one fifteenth of the state funds contributed to the construction of buildings under the program and if contributions are used to match town funds for other airport construction

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"an additional payment shall be made by the sponsoring town at the rate of three cents per gallon on all fuel sold or used in aircraft on the airport improved by said project. The determination of such fuel used or sold shall be determined as provided in RSA 422:39. The payments hereinbefore provided shall cease upon the repayment to the aeronautical fund of the entire amount of the grant from state funds."

Following receipt of your letter we discussed this matter with you by telephone and you advised us that the town of Hinsdale will be the owner of this new facility, that the town of Hinsdale as sponsoring town will execute the agreements required by Laws of 1957 319:1 quoted above, and that the 25% share from the State of Vermont and the city of Brattleboro, Vermont will be made available to the town of Hinsdale in the form of a contribution. You have inquired whether or not the 25% share to be contributed to the town of Hinsdale by the State of Vermont and the city of Brattleboro are "town funds" within the meaning of Laws of 1957 319:1 which may be equally matched by the New Hampshire Aeronautics Commission. Our answer is in the affirmative. We believe the term "town funds" as used in this legislation means all funds (other than Federal funds) which become available to a New Hampshire town for the development of airports with Federal aid under the Federal Aid Airport Program from whatever source derived whether by town appropriations, donations, contributions or otherwise. We, therefore, believe that the New Hampshire Aeronautics Commission may allocate to this project an amount equal to the amount to be contributed to the town of Hinsdale by the State of Vermont and the city of Brattleboro.

Although the situation in this case is somewhat unusual, it seems that a joint undertaking of this sort is contemplated and authorized by RSA 422:16 which provides that "the state and the towns are hereby authorized to acquire, construct, maintain and operate any air navigation facilities and may do so jointly with the United States, other states or with each other." (emphasis added)

Since the cost of this project is to be partially met by Federal Aid Airport Funds, we would direct your attention to RSA 422:18, 19, relative to the acceptance and use of such funds.

Very truly yours,

George T. Ray, Jr.  
Assistant Attorney General

GTR,Jr/m